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NATIONAL ENERGY BOARD REASONS FOR DECISION

In the Matter of the Application under
Part VI of the National Energy Board Act

of

UNION GAS LIMITED

October 1980

NATIONAL ENERGY BOARD

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Ce rapport est publié
séparément dans les
deux langues officielles.



NATIONAL ENERGY BOARD

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder; and

IN THE MATTER OF an application by Union Gas Limited for a Licence for the exportation of gas under Part VI of the said Act, filed with the Board under File No. 1537-U1-2.

HEARD at Ottawa, Ontario on 3 September 1980.

BEFORE:

J. Farmer)	Presiding Member
J.R. Jenkins)	Member
J.L. Trudel)	Member

APPEARANCES:

J.B. Jolley)	Union Gas Limited
J.B. Ballem, Q.C.)	Canadian Petroleum Association
J.H. Farrell)	The Consumers' Gas Company
H.A. Fergusson)	Dow Chemical of Canada Limited
T. Dalglish)	TransCanada PipeLines Limited
J.M. Murray)	
K.J. MacDonald)	National Energy Board

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ABBREVIATIONS AND DEFINITIONS

"the Act"	National Energy Board Act
"the Board" or "the NEB"	National Energy Board
"the Applicant", "the Company" or "Union"	Union Gas Limited
"ERA"	Economic Regulatory Administration - United States Department of Energy
"Gigajoule"	10 ⁹ joules
"International border price"	As defined under the Natural Gas Prices Regulations of the Petroleum Administration Act
"Northern"	Northern Natural Gas Company
"O.D."	Outside diameter
"OEB"	Ontario Energy Board
"Panhandle"	Panhandle Eastern Pipe Line Company
"Peaking Service"	A class of delivery service provided by seller to buyer, whereby the buyer may receive additional quantities of gas during peak winter demand days at a peaking service rate.
"Petrosar"	Petrosar Limited
"Prepaid gas"	Volumes of gas paid for but not taken, as referred to in the Union/Transco Gas Service Agreement, dated 16 April 1980.
"SNG"	Synthetic natural gas
"Terajoule"	10 ¹² joules
"TransCanada"	TransCanada PipeLines Limited
"Transco"	Transcontinental Gas Pipe Line Corporation

"10 ³ m ³ -km"	Unit representing volume (10 ³ m ³) times distance (km)
"10 ⁶ m ³ "	Million cubic metres
"kPa"	kilopascals
"Surplus Determination Tests"	Refer to National Energy Board Report of February 1979 entitled "Canadian Natural Gas - Supply and Requirements"

BACKGROUND

Union Gas Limited ("Union", "the Company", "the Applicant") is a company incorporated under the laws of the Province of Ontario with its head office at Chatham, Ontario. Union operates a fully-integrated gas transmission and distribution system with related production and underground storage facilities, in an area bounded by Windsor-Sarnia in the west, Dunnville-Hamilton-Oakville in the east, and Owen Sound and Goderich in the north.

During the years 1973-74, Union's major supplier, TransCanada PipeLines Limited ("TransCanada"), was unable to guarantee delivery of the entire volume of gas that Union had under contract with TransCanada. In addition, Union's other major supplier, Panhandle Eastern Pipe Line Company ("Panhandle"), advised Union that their contract, due to expire on 5 November 1976, would not be renewed.

As a result of this uncertainty in its gas supply, Union entered into an agreement with Petrosar Limited ("Petrosar"), dated 20 November 1974, to purchase synthetic natural gas ("SNG") from Petrosar at its plant near Sarnia, Ontario. The agreement, which commenced on 1 May 1978, provided for an annual contract quantity of up to 9 794 terajoules over a 15-year term.

In 1976, TransCanada offered Union a 20-year contract for the supply of its natural gas needs as contemplated at that time. Thus Union's supply/demand balance changed significantly from an anticipated shortfall to a surplus condition.

As a result, Union and Northern Natural Gas Company ("Northern") entered into an agreement dated 21 December 1977 whereby Northern was to purchase a volume of gas equivalent to the gas supplied to Union by Petrosar over a five-year period.

On 20 December 1977, Union applied to the Board for a licence to export SNG by displacement to Northern, in accordance with the terms of the agreement. The price of the gas was to vary with the cost of Petrosar's feedstock.

A public hearing on the application was held on 27 June 1978 and, subsequently, the Board issued Licence GL-50 to Union to export up to $1\,416.4\,10^6\text{m}^3$ of gas near Emerson, Manitoba during a five-year term ending 1 April 1983.

In 1978, Northern applied to the Economic Regulatory Administration (ERA) of the United States Department of Energy for authorization to import gas from Canada on the basis of the Union/Northern agreement. In March 1979, the application was disallowed, primarily on the basis of the pricing formula for the gas in the Agreement. During further reviews, the ERA expressed

the opinion that Northern had not demonstrated a compelling need for these new gas supplies from Canada. As a result of the ensuing import restrictions, Northern allowed its Gas Service Agreement with Union to lapse in March 1980.

On 16 April 1980, Union entered into a new Gas Service Agreement with Transcontinental Gas Pipe Line Corporation (Transco) for the sale and purchase of a volume of gas equivalent to that which Union had contracted to purchase from Petrosar.

APPLICATION

By an application dated 16 June 1980, Union applied to the Board for a licence under Part VI of the National Energy Board Act ("the Act") for the export by displacement of methane-rich synthetic natural gas. The export would occur at the international boundary between Canada and the United States of America at a point in the Detroit River where the transmission systems of Union and Panhandle interconnect.

Union sought an export term commencing on the date of authorization and ending on 30 April 1993, or until such time as recoverable volumes were delivered. The quantity of gas which Union sought to export under the licence would not exceed:

- (a) $1.7 \times 10^6 \text{ m}^3$ in any one day,
- (b) $425 \times 10^6 \text{ m}^3$ in any one year,
- (c) during the term of the licence, the total volume of SNG delivered by Petrosar to Union under the Petrosar agreement.

The export price would be the prevailing international border price of natural gas.

Union also requested that Licence GL-50, issued on 10 October 1978, be terminated upon the issuance of the licence for which it was now applying.

The Board, by its Order No. GH-6-80 (Appendix I), dated 17 July 1980, set down Union's application for public hearing commencing on 3 September 1980. The hearing was completed on the same day.

Written interventions in respect of the application were filed at the hearing on behalf of interested parties. These included Dow Chemical of Canada, Limited; The Consumers' Gas Company; the Industrial Gas Users Association; TransCanada PipeLines Limited; and the Minister of Energy for Ontario.

Two of the above parties, the Industrial Gas Users Association and the Minister of Energy for Ontario, filed written submissions but were not present at the hearing.

One other party, the Canadian Petroleum Association, applied for and was granted leave to file a late intervention at the opening of the hearing.

A number of intervenors supported Union's application; no intervenor opposed it.

MARKETS IN THE UNITED STATES

Evidence

The witness for Transco stated that the supply of gas from Union of approximately $0.85 \times 10^6 \text{ m}^3$ per day, specified in the Union/Transco Service Agreement, would represent slightly more than one percent of Transco's total daily supply. The gas would be included as part of Transco's general supply to its customers who are located along the Atlantic seaboard from Atlanta to New York City.

Transco also noted that, during the past few years, its sales had been limited as a result of supply restraints on its system. From 1971 until the summer of 1980, Transco had taken all the gas that its suppliers could deliver; however, the witness expected that the current period of excess deliverability would be short-lived, indicating that Transco would again curtail deliveries to its customers this winter.

Transco stated that it planned to purchase additional large quantities of Canadian gas, and that the price paid by Transco for this gas would be rolled in with the prices of gas from other sources.

Views of the Board

In view of the evidence presented, the Board is satisfied that Transco will be able to dispose of the proposed import volumes of gas in its intended markets.

UNION'S CANADIAN MARKET

Evidence

With regard to the demand for gas in south western Ontario, Union projected total sales of natural gas amounting to 7 101.1 10^6m^3 in 1981, and rising to 7 626.1 10^6m^3 in 1985. Thereafter, sales would increase at a rate of two percent per year. Union stated that its estimate was based on market performance in recent years.

Views of the Board

On the basis of the evidence presented, the Board accepts Union's demand estimates.

SUPPLY

Evidence

Union provided estimates of its total supply for the years 1981 through 1985 from TransCanada, local producers, its own production, and Petrosar. The following table outlines Union's projected supplies of natural gas from these sources:

	(Volumes in 10^6 m^3)				
	1981	1982	1983	1984	1985
1. TransCanada	6819.3	7521.9	7643.7	7709.7	7983.6
2. Local Producers	59.5	116.2	110.5	104.8	99.1
3. Union Production	17.0	17.0	14.2	14.2	14.2
4. Petrosar	237.2	237.2	237.2	238.0	237.2
5. Energy adjustment	6.1	6.1	6.0	5.9	6.1
Total Supply	7139.1	7898.4	8011.6	8072.6	8340.2

Views of the Board

The Board has considered the evidence and is satisfied that Union has sufficient gas under contract to meet the requirements of Union's customers and the proposed exports of SNG.

EXPORT QUANTITIES

In the application, Union proposed that the quantities of gas to be exported under the new licence would not exceed:

- (a) $1.7 \times 10^6 \text{m}^3$ in any one day,
- (b) $425 \times 10^6 \text{m}^3$ in any one year,
- (c) during the term of the licence, the total volume of SNG delivered by Petrosar to the Applicant under the Petrosar Agreement.

Evidence

The witness for Union stated that, although the contract volume under the Transco Gas Service Agreement was for only $0.85 \times 10^6 \text{m}^3$ per day, Union had applied for a maximum daily export quantity of $1.7 \times 10^6 \text{m}^3$. This was to provide for flexibility in recovering "prepaid gas" and in exporting "peaking service" gas.

With regard to prepaid gas, Union stated that a maximum daily export quantity in excess of the contract quantity of approximately $0.28 \times 10^6 \text{m}^3$ would be required; that is, an authorized maximum daily export quantity of $1.13 \times 10^6 \text{m}^3$ would be satisfactory for this purpose.

Union noted that the export of peaking service gas was not part of the current application, and it was acknowledged by the Company that Union would be required to make a new application to export gas under those circumstances. The Applicant had

allocated approximately $0.85 \times 10^6 \text{m}^3$ per day and $142 \times 10^6 \text{m}^3$ per year to the peaking service arrangement.

Union stated that the proposed annual export quantity would be in excess of the annual quantity in the Transco agreement, the purpose being to provide for an extra $142 \times 10^6 \text{m}^3$ per year of peaking service starting in the third year. Without a provision for peaking service, a condition authorizing an annual averaging of $284 \times 10^6 \text{m}^3$ per year of gas exports over the term of the licence would be ample.

Views of the Board

Peaking service sales in the export market by Union must be the subject of a new application, whenever Union's plans and contracts for this type of service are final. Therefore, any quantities allocated to this service are not to be included in the current application.

Under the terms of the Union/Transco Gas Service Agreement, if less than the contracted quantity of gas is exported within one year, the remainder may be exported in a subsequent year. In the circumstances, some flexibility would be required in the daily and annual quantities authorized by any licence that may be issued by the Board. Thus, a maximum daily quantity of $1.1 \times 10^6 \text{m}^3$ and a quantity in each year to produce an average of $284 \times 10^6 \text{m}^3$ per year over the term of the licence, would be considered reasonable.

The quantity of gas delivered to Transco, pursuant to any licence issued, is not to exceed the equivalent energy value of the quantity of SNG produced by Petrosar and delivered to the Applicant pursuant to the Petrosar Agreement.

GAS TRANSPORTATION AND FACILITIES

The SNG from Petrosar would be transported by Union's existing facilities consisting of a 323.9-mm O.D. pipeline between the Petrosar plant and Union's metering facilities, a 273.1-mm O.D. pipeline connecting Union's metering station and the Kimball line, and the section of 219.1-mm O.D. Kimball line which runs northward from this point of interconnection to Sarnia, Ontario.

According to the application, for the most part, Petrosar SNG would be delivered into the Sarnia market, and the gas to be exported would be made available from Union's supplies at its Dawn compressor station, which is a TransCanada delivery point. Union stated that deliveries from the Petrosar plant to Sarnia had commenced in 1977. It was not expected that product from Petrosar would move to Union's storage facility; however, there could be a few days during the summer months when this might occur.

The export volumes would be transported through Union's 508-mm pipeline between the Dawn compressor station and the Ojibway meter station in Windsor at a maximum operating pressure of 6040 kPa. From the Ojibway station, the volumes would be transported at a maximum operating pressure of 2420 kPa through a 406.4-mm O.D. pipeline, connecting with the two 323.9-mm O.D. pipelines that cross the Detroit River.

Views of the Board

The Board is satisfied that Union has the pipeline facilities capable of transporting the maximum contractual volumes of SNG from the Petrosar plant to Sarnia. Also, the Board agrees that Union's existing pipeline facilities are capable of transporting up to $1.1 \times 10^6 \text{m}^3$ per day between the Dawn storage and the export point near Windsor, during the term of the licence.

There are two related matters that must be resolved before any gas can be exported through the pipeline in question. Firstly, as the pipeline has not been in operation for the past four years, there is the question of whether or not re-testing is necessary. Secondly, the Ojibway meter station has been relocated, and the extent of the Board's jurisdiction over the pipeline must be re-defined.

However, since neither of these items was the subject of the present application, both will be dealt with by the Board following its usual procedures.

PURCHASE PRICE OF SNG AND COST OF STORAGE AND TRANSPORTATION

Purchase Price of SNG

The SNG sales agreement, dated 20 November 1974, between Petrosar and Union provided for an SNG contract price determined from time to time by a pricing formula (see Appendix II) reflecting changes in the feedstock cost to Petrosar. The Applicant stated that, based on the current feedstock cost, the contract price of SNG would be about \$4.97 per gigajoule. This price would be \$2.54 per gigajoule higher than the price paid by Union for gas purchased from TransCanada. The contract price of SNG would be equivalent to \$4.27 (U.S.) per gigajoule at an exchange rate of

86¢ U.S. = 100¢ Can.

Cost of Storage

Union stated that the SNG it had started to receive from Petrosar in 1977 was delivered into the Sarnia market. As a result of accounting orders issued by the Ontario Energy Board ("OEB"), Union indicated that it has maintained a separate account for this gas and has not included the cost of this gas in its cost of service. The witness for Union stated that the Company is currently receiving SNG from Petrosar at the annual rate of $248 \times 10^6 \text{ m}^3$ and estimated that the SNG inventory would total $562.9 \times 10^6 \text{ m}^3$ on 1 November 1980. The witness indicated that the export deliveries made during any one year would be equivalent to the sum of the SNG volume received from Petrosar plus the volume withdrawn from the inventory.

The Applicant presented a pro forma statement of storage costs for the first five years of SNG export. The Applicant stated that, to meet an export delivery of $283 \times 10^6 \text{m}^3$ per year, it would export all volumes received from Petrosar and lower the inventory by $35.4 \times 10^6 \text{m}^3$ each year. This would reduce the inventory to $527.5 \times 10^6 \text{m}^3$ at the end of the first year and to $385.9 \times 10^6 \text{m}^3$ at the end of the fifth year. Based on the OEB-approved rates, the Applicant stated that Union would incur storage costs of \$2.88 million during the first year, decreasing to \$2.38 million in the fifth year.

Cost of Transportation

The Applicant's estimate of the cost of transportation for the first five years of export assumed that all gas would be transported from the Dawn compressor station to the United States border near Ojibway. The estimated cost of transmission between Dawn and Ojibway would range from 1.68 cents per $10^3 \text{m}^3\text{-km}$ in the first year to 2.28 cents per $10^3 \text{m}^3\text{-km}$ in the fifth year, and the total transportation cost, including operation and maintenance, taxes, and depreciation expenses, would increase from \$490,000 during the first year to \$665,000 during the fifth year.

Views of the Board

The Board accepts the cost estimates submitted by the Applicant, and a review of these costs indicates that, at current

prices, the Company would be exporting at a loss. The current international border price of \$4.17 U.S. per gigajoule for natural gas is approximately 10 cents below the Company's SNG purchase price; thus, for the 9 794 terajoules per year under contract, the loss on product purchases at current prices would be \$979,000 annually.

The Company would also incur additional transportation costs as a result of the export sales. These costs would consist primarily of the cost of incremental fuel. Therefore, the Board estimates that these incremental costs are less than half of the Applicant's estimate of total transportation costs during the first year.

In regard to storage costs, the Board believes that the Company would not incur any additional storage costs attributable to the export sales, unless Transco were to purchase the gas from Union on an irregular basis.

The Board concludes that the loss to Union from the export sales to Transco, at current prices, would be approximately \$1.22 million during the first year. If, on the other hand, the proposed export sales were not made, Union could be obliged to absorb the cost of the higher-priced SNG, which at current prices is \$2.54 per gigajoule more expensive than the gas available from TransCanada. Thus, at current prices, if the gas were not sold in the export market, the Company's cost burden for the contract quantity would be \$24.8 million per year.

PRICE

Evidence

Under the Union/Transco Gas Service Agreement, the price for gas to be delivered to Transco is to be equal to the prevailing international border price of natural gas; the current price, which became effective on 17 February 1980, is \$4.17(U.S.) per gigajoule.

The witness for Union stated that the cost of gas purchased under the Petrosar agreement is currently \$4.27(U.S.) per gigajoule, which includes the recent increase in Petrosar's feedstock costs. Union acknowledged that the contract price for its SNG purchases was higher than the international border price, but noted that the average cost of the gas for export would be lower because Union has lower-priced SNG in inventory.

Union indicated it would be unlikely that a new sales price in excess of the international border price could be negotiated with Transco. For the contract demand service proposed in their agreement, the current price would be competitive with gas from other Canadian sources. The witness for Union stated that, if the contract price for purchases of SNG from Petrosar remained above the international border price, Union would not necessarily terminate the Transco agreement, because a continuation of the sales might still be the best means of offsetting the high cost of the product.

Views of the Board

The Board has evolved the following criteria for measuring the justness and reasonableness of the selling price when considering applications for gas exports:

- (1) the export price must recover its appropriate share of the costs incurred;
- (2) the export price should be, under normal circumstances, not less than the price to Canadians for similar deliveries in the same area;
- (3) the export price of the gas should not result in prices in the United States market area materially less than the least-cost alternative for energy.

The selling price of the gas at the international boundary near Windsor, Ontario is higher than TransCanada's selling price to distributors in south western Ontario; therefore, criterion (2) is satisfied.

Also, because the international border price has been established on the basis of competitive prices for energy in the international market, criterion (3) is satisfied.

In regard to the first criterion, the Board notes that the selling price to Transco may not cover Union's costs in the long term, when the Petrosar purchase price plus incremental storage costs and transportation costs to the point of export are considered. The relationship of the costs incurred by Union to the export price could vary as a result of either a change in the

domestic price of crude oil as it relates to Petrosar's feedstock costs, or a change in the international border price of natural gas. Both of these prices will undoubtedly change during the term of the Union/Transco agreement; however, Union has the right, at its option, to terminate the agreement if the cost/selling price ratio becomes onerous. If Union does not sell the SNG in the export market, the Company might be obliged to absorb the difference in cost between the domestic price of gas and the international border price. It is estimated that, at current prices, the resulting annual cost burden to the Company would be \$24.8 million.

In view of the foregoing, the Board finds the export price to be just and reasonable.

SURPLUS¹

Evidence

Union presented evidence to demonstrate that, based on the Board's Current Reserves Test calculated as of 31 December 1979, there was a surplus of gas in Canada.

Union testified that because of the source of the SNG involved in this application, it did not believe that the Board's Current and Future Deliverability Tests, as outlined in the November 1979 Report, applied.

Views of the Board

The Board has considered the evidence as it relates to the quantities of gas surplus to the reasonably foreseeable requirements for use in Canada, and concludes, in the circumstances of this application, that:

1. The Current Reserves Test is satisfied.
2. The Current Deliverability Test should be satisfied.

The Board's decision on the supply/demand balance is based on its April 1980 Reasons for Decision regarding Applications by Pan-Alberta Gas Ltd. and Consolidated Natural Gas Limited. In that report (Chapter P-6), it was forecast that a deficiency would occur in 1988 under the Current Deliverability Test.

The quantities of SNG involved in this application are incremental to the surplus determination in the April 1980 decision. This additional SNG supply will also be surplus under the Current Deliverability Test until

1. See "Surplus Determination Tests" - definitions

1988 and, therefore, the longest period that may be granted as a firm licence is seven years.

3. It would not be in the public interest to grant a licence beyond seven years under the Future Deliverability Test.
4. The additional supply that will be used to satisfy these exports must come from involuntary production of SNG.

TAKE-OR-PAY

The Agreement

The Union/Transco Gas Service Agreement dated 16 April 1980, includes a "take-or-pay" clause whereby Transco is obligated to take the contract quantity in each period. If the contract quantity were available but not taken, Transco would be required to pay Union for the portion of the contract quantity not taken. Any volumes so paid for but not taken are referred to in the Agreement as "prepaid gas". The prepaid gas could be recovered by Transco over the following two years. If the prepaid gas volumes were not fully recovered by Transco by the end of the second year, these volumes would be lost to Transco, and Union would be obliged to refund to Transco the amount paid for the remaining unrecovered volumes of prepaid gas.

Evidence

The witness for Transco stated that the pay-back provision in the take-or-pay clause was not a standard provision in Transco's supply contracts. There is, generally, an obligation to take-or-pay for something less than the full daily volume (80 or 90 percent) and there is a five-year period to "make up" any take-or-pay volume. It was further stated that under the terms of the take-or-pay provision in the Union contract, Transco would be obliged to take a volume in excess of the contract quantity to recover any prepaid gas. Transco felt that this would be an onerous provision which could result in paying for gas not received.

Transco further noted that if the take-or-pay provision were based on a percentage less than 100 percent, a different arrangement might be reasonable, including a compromise on the pay-back feature.

The witness for Union stated that under the Union/Petrosar Gas Sales Agreement, Union would have to take the SNG from Petrosar or pay damages to Petrosar for non-acceptance. On the other hand, under the Union/Transco Gas Service Agreement, if Transco did not take delivery of the prepaid gas by the end of the specified period, Union would be obliged to refund to Transco the price of the non-recovered prepaid gas.

The witness noted that it was Union's impression that Transco would need all of the gas quantities under contract, but Union also recognized that it was possible for Transco to take none or only part of the dedicated volume over the term of the Agreement. If Transco did not take the contract quantities, Union would be obliged to have Transco release some of the dedicated volume before Union could enter into new contracts to dispose of the surplus.

Union stated that if Petrosar delivered more gas than Transco nominated to take, the gas would go into storage, and Union would absorb the swings in demand and supply. An irregular export delivery pattern would tend to increase storage levels. Union would have some flexibility in changing incremental purchases from TransCanada, but, under certain contracts,

Union would be obliged to give 18 months' notice in order to cut back TransCanada's committed deliveries.

Views of the Board

Take-or-pay clauses are generally included in sale/purchase agreements to guarantee sellers a certain minimum cash flow for their financial planning. The assured revenue would cover basic costs, including any investments the sellers would be obliged to dedicate towards the fulfillment of the agreement. To allow for some flexibility on the part of the purchasers, the take-or-pay obligation is normally 80 to 90 percent of the contract volume.

Under the Union/Transco Gas Service Agreement, Union is required to make available to Transco a quantity of gas equivalent to Union's purchases from Petrosar. If Transco does not take the contract quantity during any period, Union is obliged to retain the gas in storage for possible subsequent recovery by Transco. Union pays Petrosar for product received and, in turn, Transco pays Union for the contract quantity of gas, including that not taken. At the end of the two-year recovery period, Union repays Transco for any prepaid gas not recovered during the period.

Under the Agreement, Transco is obliged to pay for 100 percent of the annual contract quantity each year and Union is obliged to refund to Transco amounts paid for prepaid gas not taken. These two aspects of the take-or-pay clause are not normal features of this type of agreement.

In normal circumstances, when the gas is conventionally produced and new production or transmission facilities are required, the refund obligation might not be acceptable to the Board. Nevertheless, because of the particular circumstances surrounding the purchase and sale of SNG, they may be appropriate in this instance.

The Board recognizes that Union is now receiving the high-cost SNG from Petrosar and that no additional facilities will be required to implement the export sales. The 100 percent take-or-pay clause in the Union/Transco Agreement will immediately improve Union's cash flow position by offsetting payments to Petrosar for the SNG.

The Board notes that Transco has entered into a contract with Panhandle for the transportation of its gas from Union at a fixed monthly charge. Thus, any purchases by Transco from Union at less than the contract quantity would tend to increase Transco's unit transportation costs.

The refunding aspect of the take-or-pay clause would come into effect whenever Transco could not take all of its

prepaid gas purchases over a two-year period. At that time, the repayments to Transco would have a negative impact on Union's cash flow, and Union would be obliged to search out a new customer for the surplus product. Nevertheless, assuming that Transco will hold the non-recovery of prepaid gas to a minimum, because of its supply requirements, and assuming that alternative markets could become available for Union's surplus product, the impact on Union's financial position due to the refunding obligation would be reduced.

In view of the foregoing, the Board accepts the Gas Service Agreement as submitted with the evidence, noting that the type of take-or-pay clause in the circumstances of this Agreement will not set a precedent for other agreements in different circumstances.

DISPOSITION

The Board, having considered all the evidence and arguments made with respect to the application, is satisfied that it is in the public interest to grant the application of Union Gas Limited.

In reaching this conclusion, the Board has taken a number of factors into consideration. Under Section 83 of the National Energy Board Act, conditions concerning export quantity and price must be satisfied prior to the issuance of an export licence.

The Board is satisfied that the volume of gas to be exported does not exceed the surplus remaining after due allowance has been made for the reasonably foreseeable requirements for use in Canada. The volumes of gas which Union may export under a licence are set out in the terms and conditions in Appendix III. It should be noted that the approved daily and annual volumes contain significant reductions from those applied for by Union. In the view of the Board, the authorized volumes provide sufficient flexibility for Union to honour the terms and conditions of its agreement with Transco.

Further, the Board finds that the term of the licence should be limited to five (5) years. This term is shorter than the period for which the current deliverability test is satisfied; however, in view of the Board's reservations

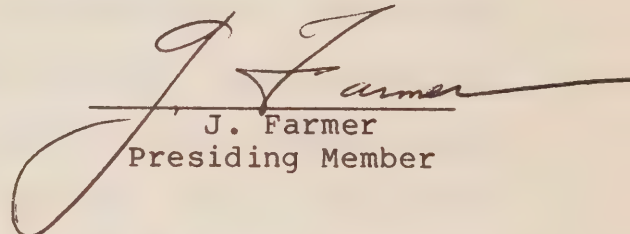
concerning the take-or-pay clause in the Union/Transco Agreement, the Board finds that a five-year term is appropriate.

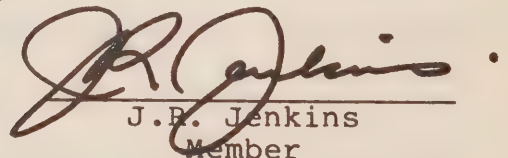
Evidence was adduced at the hearing with respect to the justness and reasonableness of the export price. Although, in the circumstances of this case, it is not clear that the Board's first price criterion will be met, the Board is satisfied that the price to be charged by Union is just and reasonable in relation to the public interest.

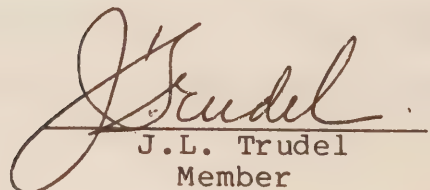
As a result of the decisions outlined in this report, the Board is prepared to issue a licence to Union Gas subject to the terms and conditions set forth in Appendix III and which licence shall be subject to Governor-in-Council approval.

Accordingly the Board will also issue an order revoking Licence GL-50 as applied for by Union.

The foregoing constitutes our Reasons for Decision and decision in this matter.


J. Farmer
Presiding Member


J.B. Jenkins
Member


J.L. Trudel
Member

NATIONAL ENERGY BOARD



OFFICE NATIONAL DE L'ÉNERGIE

ORDER NO. GH-6-80

IN THE MATTER OF the National Energy Board Act
and the Regulations made thereunder; and

IN THE MATTER OF an application by Union Gas
Limited (hereinafter called "the Applicant")
for a Licence for the exportation of gas under
Part VI of the said Act, filed with the Board
under File No. 1537-U1-2.

B E F O R E the Board on Thursday, the 17th day of July 1980.

Upon reading the application dated the 16th day of June
1980, filed by the Applicant:

IT IS ORDERED THAT:

1. The application will be heard at a public hearing
(hereinafter referred to as "the hearing") to commence on the 3rd
day of September, 1980, at the hour of 9:30 a.m. local time, in the
hearing room of the National Energy Board, Trebla Building, 473
Albert Street, in the City of Ottawa, in the Province of Ontario.
Such proceedings will be conducted in either of the two official
languages and simultaneous interpretation will be provided should a
party to the proceedings request such facilities in his
intervention.

2. The Applicant shall arrange to have the Notice of Hearing
in the form prescribed by the Board, as set forth in the Notice
attached hereto and which forms part of this Order, published not
later than the 25th day of July 1980, or as soon thereafter as
possible, in one issue each of the "Herald" in the City of Calgary,
and the "Journal" in the City of Edmonton, both in the Province of
Alberta; "The Leader-Post" in the City of Regina,

in the Province of Saskatchewan; "The Winnipeg Free-Press" in the City of Winnipeg, in the Province of Manitoba; "The Globe and Mail" in the City of Toronto, "The Observer" in the City of Sarnia, "The News" in the City of Chatham, and "The Citizen" and "Le Droit" both in the City of Ottawa, all in the Province of Ontario; "The Gazette" and "Le Devoir" in the City of Montreal in the Province of Quebec, and, as soon as possible, in the "Canada Gazette".

3. Notice of the hearing shall be given by the Applicant by service of a true copy of this Order, together with a copy of the application filed, upon the Attorneys General of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec, the Energy Resources Conservation Board of Alberta, and the Ontario Energy Board.

4. Any respondent or intervenor intending to oppose or intervene in the application shall file, on or before the 22nd day of August, 1980, with the Secretary of the Board, thirty (30) copies of a written statement, in either of the two official languages, containing his reply or submission, together with any supporting information, particulars or documents, which shall include a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be determined, which may admit or deny any or all of the facts alleged in the application, which shall be endorsed with the name and address of the respondent or intervenor, or his solicitor to whom communications may be sent, which shall state in which of the two

... 3

official languages the party wishes to be heard, and which shall indicate whether the respondent or intervenor wishes to receive a copy of the application or a portion thereof. Any respondent or intervenor shall, in addition, on or before the 22nd day of August, serve three (3) copies of his reply or submission and supporting information, particulars or documents upon the Applicant, and one (1) copy each upon each of the parties named in paragraph 3 of this Order and shall file proof of service thereof with the Board at the opening of the hearing.

5. Upon receipt of a copy of the written statement referred to in paragraph 4 containing a request for a copy of the application or a portion thereof, the Applicant shall, as soon as possible, either provide the same or apply to the Board for relief from this requirement of service.

6. Any interested party may examine a copy of the application and the submissions filed therewith at the office of:

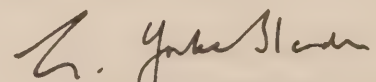
National Energy Board.
Trebla Building,
473 Albert Street,
OTTAWA, Ontario.
K1A OE5.

and at the office of the Applicant at the following address:

Union Gas Limited,
50 Keil Drive N.,
Chatham, Ontario.
N7M 5M1.

DATED at the City of Ottawa in the Province of Ontario,
this 17th day of July 1980.

NATIONAL ENERGY BOARD



G. Yorke Slader,
Secretary.

NATIONAL ENERGY BOARD

NOTICE OF HEARING

TAKE NOTICE that pursuant to the National Energy Board Act and Regulations made thereunder, the Board has ordered a hearing to be held in the hearing room of the National Energy Board, Trebla Building, 473 Albert Street, in the City of Ottawa in the Province of Ontario, commencing on September 3, 1980, at 9:30 a.m. local time, to hear the application of Union Gas Limited pursuant to Part VI of the National Energy Board Act:

- 1) for a licence for the exportation by displacement of synthetic gas (SNG), up to 3.68 billion cubic metres (130 Bcf) at a rate not exceeding 425 million cubic metres per year (15 Bcf per year) to Transcontinental Gas Pipe Line Corporation (Transco) from date of authorization until 30 April 1993, and
- 2) for termination of licence GL-50 upon issue of the requested new licence,

all as more particularly described in the application. Such proceedings will be conducted in either of the two official languages and simultaneous interpretation will be provided should a party to the proceedings request such facilities in his intervention.

AND THE BOARD HAS FURTHER ORDERED THAT:

1. Any respondent or intervenor intending to oppose or intervene in the application shall file on or before August 22, 1980, with the Secretary of the Board, thirty (30) copies of a written statement in either of the two official languages containing his reply or submission, together with any supporting information, particulars or documents, which shall include a concise statement of the facts from which the nature of the respondent's or intervenor's interest in the proceedings may be

determined, which may admit or deny any or all of the facts alleged in the application, which shall be endorsed with the name and address of the respondent or intervenor or his solicitor to whom communications may be sent, which shall state in which of the two official languages the party wishes to be heard, and which shall indicate whether the respondent or intervenor wishes to receive a copy of the application or a portion thereof. Any respondent or intervenor shall, in addition, on or before August 22, 1980, serve three (3) copies of his reply or submission, and supporting information, particulars or documents upon the Applicant and one (1) copy each upon the Attorneys General of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec, the Energy Resources Conservation Board of Alberta and the Ontario Energy Board, and shall file proof of service thereof with the Board at the opening of the hearing.

2. Any interested party may examine a copy of the application and the submissions filed therewith at the office of:

National Energy Board
Trebla Building
473 Albert Street
OTTAWA, Ontario
K1A OE5

or at the office of the Applicant at the following address:

Union Gas Limited
50 Keil Drive N.
Chatham, Ontario
N7M 5M1

DATED at the City of Ottawa in the Province of Ontario,
this 17th day of July 1980.

NATIONAL ENERGY BOARD

G. Yorke Slader,
Secretary.

APPENDIX II

Union/Petrosar Price Formula
(Can \$/MMBtu)

$$\text{Contract Price/MMBtu} = \$2.078 + 0.26 (\text{FC} - \$7.14)$$

- Where:
- | | | |
|---------|---|--|
| \$2.078 | - | determined in discussions with Petrosar when the contract was negotiated, and directly related to the value of other products. |
| 0.26 | - | includes conversion factors since FC and \$7.14 are in dollars per barrel and \$2.078 is in dollars per million Btu's. |
| FC | - | current feedstock cost per barrel. |
| \$7.14 | - | base cost of feedstock per barrel on 30 June 1974. |

Terms and Conditions of the Proposed Licence

This licence is subject to the following terms and conditions:

1. The term of this licence shall commence on the 1st day of November, 1980, and end on the 31st day of October, 1985.
2. The quantity of gas that may be exported under the authority of and in accordance with this licence, subject to condition 3, shall not exceed:
 - (a) 1 100 000 cubic metres in any one day,
 - (b) a quantity in each year which shall produce an average of 284 000 000 cubic metres per year calculated cumulatively on the 31st day of October in each year comprised in the term of this licence, commencing with the year ending on the 31st day of October, 1981,
 - (c) 1 420 000 000 cubic metres during the term of this licence.
3. Notwithstanding any other provision of this licence, the total quantity of gas that may be exported under the authority of and in accordance with this licence shall not exceed the total energy equivalent volume of methane-rich synthetic gas delivered by Petrosar to the Licensee under their Gas Sales Agreement, dated the 20th day of November, 1974.
- 4.(1) The price to be received for gas exported in each month comprised in the term of this licence, including all transmission costs of moving gas to the international boundary line between Canada and the United States of America, shall be not greater than and not less than the Canadian dollar equivalent for each such month of \$4.17 in United States currency per gigajoule of gross heating value.
 - (2) The Canadian dollar equivalent for each month comprised in the term of this licence shall be an amount in Canadian dollars equal to the price in United States dollars specified in subcondition (1), converted to Canadian dollars at the rate of exchange for each such month, which rate of exchange shall be the average of the noon spot exchange rates for the United States dollar in terms of Canadian dollars in each such month, as published by the Bank of Canada.

5. The quantity, relative density and gross heating value of all gas exported under the authority of and in accordance with this licence shall be measured by the Licensee in a manner approved by the Board.
6. The Licensee shall, within 15 days of the end of each month comprised in the term of this Licence, file with the Board a report setting forth for each such month:
 - (a) the quantity of gas (in joules) delivered each day by Petrosar Limited to Union Gas Limited under their Gas Sales Agreement, dated the 20th day of November, 1974.
 - (b) The month end inventory (in joules) of gas received from Petrosar under their Gas Sales Agreement and held in inventory by the Licensee for export under this licence.
7. The Licensee shall, within 15 days of the end of each month comprised in the term of this licence, file with the Board a report setting forth the daily quantities, relative density and gross heating value of the gas exported hereunder.

